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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/747,909

12/22/2000

Lucy Broyles

4013-00100

4442

30652

7590

10/04/2007

CONLEY ROSE, P.C.

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EXAMINER

GATES, ERIC ANDREW

ART UNIT

PAPER NUMBER

3722

MAIL DATE

DELIVERY MODE

10/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/747,909

Applicant(s)

BROYLES, LUCY

Examiner

Eric A. Gates

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-19,23-26,28,30,31,33-36 and 38-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-19,23-26,28,30,31,33-36 and 38-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 18 July 2007 has been entered.

Claim Objections

2. Claims 33 and 34 are objected to because of the following informalities: these claims depend from canceled claim 32. The claims should depend from independent claim 31. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 17-19, 23-26, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (U.S. Patent 5,844,797) in view of Panec (U.S. Patent 5,957,693).

Regarding claim 17, Johnson discloses a process by which a reader can facilitate the reading skills of a pre-reader comprising: the reader obtaining a kit having a theme related to a planned shared experience (see column 1, lines 3-26 and column 2, lines 43-65), the kit comprising: a plurality of pages having binder and outer edges, the plurality of pages including pages having text related to the theme of the planned shared experience; and a binder configured to secure the plurality of pages, proximate the binder edges, at least one of the pages having text related to the theme of the planned shared experience comprising: a photographic site configured to receive a pictorial representation; and a caption site corresponding to the photographic site, the caption site configured to receive text; the reader sharing an actual experience (album is shown to third party, see column 1, lines 23-26), the actual shared experience corresponding to the planned shared experience (the subject of the kit); memorializing the actual shared experience through one or more pictorial representations, the shared experience being related to the theme of the kit; constructing a first personalized language book by: affixing one or more pictorial representations to corresponding ones of the photographic sites of the at least one of the pages having text related to the theme; personalizing one or more of the one or more pictorial representations by adding text to the caption sites to which the one or more pictorial representations to be personalized were affixed; organizing the plurality of pages in a preferred order; and

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binding the plurality of pages with the binder. Johnson does not disclose the kit being a repetitive language kit, or the planned shared experience, the actual shared experience, or the memorializing being between a reader and a pre-reader, the text being repetitive text, or the reader reading the plurality of pages to the pre-reader.

Panec teaches a method of shared reading between a reader and a novice reader (i.e., pre-reader; Webster's Online Dictionary defines novice as one who has no previous training or experience in a specific field or activity) using a repetitive language kit 10 that includes repetitive text 20a-c, in which the child is helped to learn words beyond the child's current skill level as the skilled reader reads and points to the skilled reader's text. Then the child reads the child's repetitive text 20a-c, helped and encouraged by the skilled reader (see column 2, lines 36-39). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the kit of Johnson with the repetitive language and method of teaching for a pre-reader of Panec in order to have a repetitive language kit having a theme related to a planned shared experience that can be planned, shared, and memorialized with the pre-reader.

Regarding claim 18, the modified invention of Johnson discloses the binder being selected from the group consisting of lace, ribbon, string and yarn (see column 2, line 51).

Regarding claim 19, Johnson does not distinctly disclose the binder being threaded through perforations of the front cover, back cover, and plurality of pages to form a plurality of loops proximate the front cover perforations and the ends being

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threaded through the loops for securing together. However, the examiner takes Official Notice that it is well known in the art to form a lace binder in this way for the purpose of having a binder that can be put together without binding equipment.

Regarding claims 23-24, the modified invention of Johnson discloses the invention substantially as claimed.

Regarding claims 25-26, the modified invention of Johnson discloses the invention substantially as claimed (see column 4, lines 14-17).

Regarding claim 40, the modified invention of Johnson discloses wherein the planned shared experience is a planned trip to a zoo (see column 2, lines 43-48), the shared experience is an actual trip to the zoo and the pictorial representations are pictures of animals seen at the zoo by the reader and the pre-reader.

5. Claims 28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view Panec and further in view of Phillips (U.S. Patent 5,651,678).

Johnson, as modified by Panec, discloses the claimed invention except for explicitly disclosing the process of memorizing the text on the pages. Phillips discloses an educational aid and method for using it to teach students to read by facilitating the rapid development of sight-word vocabularies in an interesting and challenging manner for the purpose of utilizing a student's natural ability to learn and memorize a text (see column 2, lines 39-42, 66-67 thorough column 3, lines 1-7). Therefore, it would have been obvious to one having ordinary skill in the art of education to memorize text on pages, as taught by Phillips, to facilitate the instruction of students to read.

6. Claims 31-36, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (U.S. Patent 5,844,797) in view of Panec (U.S. Patent 5,957,693).

Regarding claim 31, Johnson discloses a process by which a reader facilitates the reading skills of a pre- reader comprising: obtaining a kit having a theme related to a planned experience (see column 1, lines 3-26 and column 2, lines 43-65), the kit comprising: a plurality of pages having text related to the theme of the planned experience; and a binder configured to secure the plurality of pages having text related to the theme of the planned experience; memorializing an experience (using personal photographs and text), the experience being similar to the planned experience; constructing a first personalized language book by: affixing visual memorials (personal photographs) of the experience to the plurality of pages having text related to the theme of the planned experience; organizing the plurality of pages in a preferred order; and binding the plurality of pages with the binder.

Johnson does not disclose the kit being a repetitive language kit, or the planned shared experience, the actual shared experience, or the memorializing being between a reader and a pre-reader, or the text being repetitive text, or the reader reading the plurality of pages to the pre-reader.

Panec teaches a method of shared reading between a reader and a novice reader (i.e., pre-reader; Webster's Online Dictionary defines novice as one who has no previous training or experience in a specific field or activity) using a repetitive language kit 10 that includes repetitive text 20a-c, in which the child is helped to learn words

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beyond the child's current skill level as the skilled reader reads and points to the skilled reader's text. Then the child reads the child's repetitive text 20a-c, helped and encouraged by the skilled reader (see column 2, lines 36-39). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the kit of Johnson with the repetitive language and method of teaching for a pre-reader of Panec in order to have a repetitive language kit having a theme related to a planned shared experience that can be planned, shared, and memorialized with the pre-reader.

Regarding claim 33 and 34, the modified invention of Johnson discloses the invention substantially as claimed.

Regarding claims 35-36, the modified invention of Johnson discloses the invention substantially as claimed (see column 4, lines 14-18).

Regarding claim 41, the modified invention of Johnson discloses wherein the planned shared experience is a planned trip to a zoo (see column 2, lines 43-48), the shared experience is an actual trip to the zoo and the pictorial representations are pictures of animals seen at the zoo by the reader and the pre-reader.

7. Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Panec and further in view of Phillips (U.S. Patent 5,651,678).

Johnson, as modified by Panec, discloses the claimed invention except for explicitly disclosing the process of memorizing the text on the pages. Phillips discloses an educational aid and method for using it to teach students to read by facilitating the

rapid development of sight-word vocabularies in an interesting and challenging manner through the utilization of a student's natural ability to learn and memorize a text (see column 2, lines 39-42, 66-67 thorough column 3, lines 1-7). Therefore, it would have been obvious to one having ordinary skill in the art of education to memorize text on pages, as taught by Phillips, to facilitate the instruction of students to read.

8. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (U.S. Patent 5,844,797) in view of Panec (U.S. Patent 5,957,693).

Regarding claim 17, Johnson discloses a process by which a reader can facilitate the reading skills of a pre-reader comprising: the reader obtaining a kit having a theme related to a planned shared experience (see column 1, lines 3-26 and column 2, lines 43-65), the kit comprising: a plurality of pages having binder and outer edges, the plurality of pages including pages having text related to the theme of the planned shared experience; a binder configured to secure together the plurality of pages; the reader sharing an experience (album is shown to third party, see column 1, lines 23-26), the shared experience having a theme related to the theme of the planned shared experience; memorializing the shared experience through one or more pictorial representations; constructing a first personalized language book by: affixing a selected one of the one or more pictorial representations memorializing the shared experience to a selected one of the plurality of pages having repetitive text; and binding the selected ones of the plurality of pages together with the binder.

Johnson does not disclose the kit being a repetitive language kit, or the planned shared experience, the actual shared experience, or the memorializing being between a reader and a pre-reader, or the text being repetitive text, or the reader reading the plurality of pages to the pre-reader.

Panec teaches a method of shared reading between a reader and a novice reader (i.e., pre-reader; Webster's Online Dictionary defines novice as one who has no previous training or experience in a specific field or activity) using a repetitive language kit 10 that includes repetitive text 20a-c, in which the child is helped to learn words beyond the child's current skill level as the skilled reader reads and points to the skilled reader's text. Then the child reads the child's repetitive text 20a-c, helped and encouraged by the skilled reader (see column 2, lines 36-39). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the kit of Johnson with the repetitive language and method of teaching for a pre-reader of Panec in order to have a repetitive language kit having a theme related to a planned shared experience that can be planned, shared, and memorialized with the pre-reader.

Response to Arguments

9. Applicant's arguments filed 18 July 2007 have been fully considered but they are not persuasive.

10. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by

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combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to combine is found in the references themselves and in the knowledge generally available to one of ordinary skill in the art.

Johnson explains that the completed album will provide additional interest for third parties viewing the album (for example, a pre-reader) in a way that a disorganized collection of individual photographs will not, and that albums may be provided for special occasions such as trips to theme parks, amusement parks, or the zoo, and that personalized photographs and text may be added to the album. The theme of the album itself is the planned shared experience that may be shared and memorialized between the reader and the pre-reader, and an album related to any of the above trips would obviously hold interest for a small child and could be used to enhance reading skills.

Panec teaches a shared reading experience between a reader and a pre-reader, including the use of repetitive text to facilitate the teaching experience. Both of these patents relate to printed matter that is designed to be shared with another person, such as a pre-reader, and the motivation to combine would be for the purpose of encouraging and facilitating the novice reader to learn to read by making the experience more interesting for the child. It is also noted that all of the claimed elements were known in

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the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

11. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

12. For the reasons as set forth above, the rejections are maintained.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric A. Gates whose telephone number is 571-272-5498. The examiner can normally be reached on Monday-Thursday 7:45-6:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



EAG
27 September 2007


MONICA CARTER
SUPERVISORY PATENT EXAMINER